



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[USCG-2016-0813]

RIN 1625-AA87

Security Zone; 22nd International Seapower Symposium Special Events, Rosecliff

Mansion and Newport Marriott Hotel, Newport, RI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary 500-yard security zone on the waters adjacent to Rosecliff Mansion and the Newport Marriott Hotel, in Newport, Rhode Island, in conjunction with special events of the U.S. Navy's 22nd International Seapower Symposium. Vessels and people are prohibited from entering these security zones.

DATES: This rule is effective from 4 p.m. on September 20, 2016 through 11:30 p.m. on September 22, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0813 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Edward G. LeBlanc at Sector Southeastern New England, telephone (401) 435-2351, e-mail Edward.G.LeBlanc@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
TFR	Temporary Final Rule
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.”

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule. Because of the sensitive security issues related to these special events, the Coast Guard was not aware of the final details with sufficient time to solicit public comments. Thus, waiting for a full comment period to run would inhibit the Coast Guard’s ability to keep senior military leaders and government officials, along with the general public, safe from subversive acts directed at these high visibility special events. Providing a prolonged public notice and comment period is contrary to the public interest due to national security concerns.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that

good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, delaying the effective date of this rule would be contrary to the public interest.

III. Legal Authority and Need for Rule

The legal authority for this rule is 33 U.S.C. 1231 which authorizes the Coast Guard to define Security Zones.

The 22nd International Seapower Symposium is being held on Goat Island, Newport, RI, from September 18 to September 23, 2016. High level U.S. officials and delegates from over 125 countries are expected to attend. As part of the Symposium, special events are being held on the evenings of Tuesday, September 20 and Thursday, September 22, 2016, at Rosecliff Mansion and the Newport Marriott Hotel, respectively, which are waterfront properties in Newport, Rhode Island, and within the COTP, Southeastern New England zone. The COTP has determined that it is necessary to temporarily prohibit vessel traffic from transiting within 500 yards of Rosecliff Mansion (approximate position 41°-27'54" N, 071°-18'18"W) and the Newport Marriott Hotel (approximate position 41°-29'23"N, 071°-19'04"W), Newport, RI, to safeguard the symposium attendees against potential sabotage, subversive acts, or other threats.

IV. Discussion of the Rule

For the reasons discussed above, this rule establishes temporary 500-yard security zones in the navigable waters adjacent to Rosecliff Mansion (approximate position 41°-27'54" N, 071°-18'18"W) and the Newport Marriott Hotel (approximate position 41°-29'23"N, 071°-19'04"W) respectively, in Newport, Rhode Island. These security zones will be effective and enforced at Rosecliff Mansion and the Newport Marriott Hotel from

4 p.m. to 11:30 p.m. on Tuesday, September 20 and Thursday, September 22, 2016, respectively. Vessels and persons will be prohibited from entering these security zones during this time.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget.

The Coast Guard expects the economic impact of this rule to be minimal, such that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. The effect of this rule will be small, as the duration of the security zones is for only seven and a half hours on two separate evenings. Additionally, vessels may be permitted to transit and navigate in waters adjacent to this security zones, minimizing any adverse impact. Maritime advisories will be broadcasted.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zones may be small entities, for the reasons stated in section V.A above this rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small

Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule does not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of temporary security zones for special events being held in conjunction with the 22nd International Seapower Symposium. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. An environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary § 165.T01-0813 to read as follows:

§ 165.T01-0813 Security Zones: Rosecliff Mansion and Newport Marriott Hotel, Newport, Rhode Island.

(a) Location. The following areas are security zones: All navigable waters, from surface to bottom, within 500 yards of Rosecliff Mansion (approximate position 41°-27'54" N, 071°-18'18"W) and the Newport Marriott Hotel (approximate position 41°-29'23"N, 071°-19'04"W), Newport, Rhode Island.

(b) Effective and enforcement period. This rule will be effective and enforced from 4 p.m. to 11:30 p.m. on Tuesday, September 20, 2016 at Rosecliff Mansion, and from 4 p.m. to 11:30 p.m. on Thursday, September 22, 2016, at the Newport Marriott Hotel.

(c) Definitions. The following definitions apply to this section: “Designated on-scene patrol personnel” means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port, Southeastern New England.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.30 and 165.33 apply.

(2) In accordance with the general regulations in 33 CFR 165.33 of this part, entry into or movement within these zones is prohibited unless authorized by the Captain of the Port, Southeastern New England.

(3) Any vessel permitted to enter these security zones shall comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF-16.

Dated: August 31, 2016

J. A. SMITH

Commander, U.S. Coast Guard

Acting Captain of the Port, Southeastern New England

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